

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:12cv61**

<b>PAUL FRIZZELL,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>Vs.</b>	)	<b>ORDER</b>
	)	
<b>STATE OF NORTH CAROLINA, <i>et al.</i>,</b>	)	
	)	
<b>Defendants.</b>	)	
	)	

**THIS MATTER** is before the court on review of a non-dispositive Order issued by Honorable David C. Keesler, United States Magistrate Judge, in this matter. Plaintiff has filed objections to such Order.

First, plaintiff, proceeding pro se, challenges the magistrate judge’s jurisdiction to dispose of plaintiff’s “Amended Motion to Consolidate” (#6). As such motion was filed in a case that had been terminated as frivolous by this court, the magistrate judge properly deemed such motion to be a motion to re-open and denied the request, finding that “the instant motion appears to state the same cause of action and request for relief the Court has already considered and dismissed.” Order (#9), at 1. The court fully concurs with Judge Keesler’s conclusions and adopts them.

The district court has authority to assign non-dispositive pretrial matters pending before the court to a magistrate judge to “hear and determine.” 28 U.S.C. § 636(b)(1)(A). When reviewing an objection to a magistrate judge's order on a non-dispositive matter, the district court must set aside or modify any portion of that order which is clearly erroneous or contrary to law. Fed.R.Civ.P. 72(a). To show that a magistrate judge's order is contrary to law, the objecting party must show that the magistrate judge failed to apply or misapplied

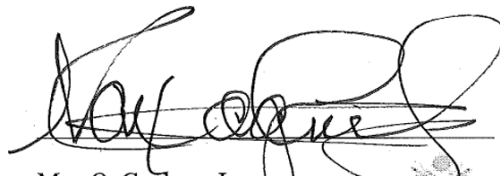
statutes, case law, or procedural rules. See Catskill Dev. LLC v. Park Place Entm't Corp., 206 F.R.D. 78, 86 (S.D.N.Y.2002).

The court has carefully reviewed the Order as well as the objection, and has determined that the Order of the magistrate judge is fully consistent with and supported by current law. Based on such determination, the court will overrule the objection and fully affirm the Order.

### **ORDER**

**IT IS, THEREFORE, ORDERED** that the Objection (#10) is **OVERRULED**, and the Order (#9) is **AFFIRMED**.

Signed: March 26, 2012



Max O. Cogburn Jr.  
United States District Judge